



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of:

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/172708

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 8, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone from Madison, Wisconsin on April 12, 2016.

The issue for determination is whether petitioner is eligible for payment by the MA program for the custom foot orthotics (inserts) requested in Prior Authorization ["PA"] # [REDACTED].

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

Represented by:

[REDACTED] [REDACTED], petitioner's long time  
friend

[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED] [REDACTED], PT, DPT [Ms. [REDACTED] did not appear at the April 12, 2016 Hearing but submitted a letter dated March 30, 2016 with an attachment.]

Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]; 54 years old) is a resident of Dane County, Wisconsin.
2. Petitioner's provider, [REDACTED], Wisconsin, requested Prior Authorization (PA # [REDACTED] dated January 20, 2016) for MA coverage of custom foot orthotics (inserts) for petitioner at a total cost of \$302.40. Exhibit #1.
3. DCHAA denied PA request # [REDACTED] for custom foot orthotics (inserts); DCHAA sent petitioner a letter dated February 15, 2016 and entitled *BadgerCare Plus Notice of Appeal Rights* informing petitioner of the denial. Exhibit #1.
4. Petitioner has diagnosis of flat feet and corns and callosities; he also has severe thinning of the skin, PVD, and venous insufficiency of both legs. Exhibit #1.

### **DISCUSSION**

Petitioner is requesting the custom foot orthotics (inserts) because he has feet and corns and callosities which cause him pain.

Foot orthoses or orthopedic or corrective shoes are not covered by MA for flattened arches (regardless of the underlying pathology). Wis. Admin. Code § DHS 107.24(5)(a)1. (August 2015); *ForwardHealth Update*, August 2015, No. 2015-37 (“New Coverage and Prior Authorization Policy for Orthopedic or Corrective Shoes and Foot Orthotics”), page 1; See also; Wis. Admin. Code § DHS 107.02(3)(e)9. (August 2015); and, Wis. Admin. Code § DHS 107.02(2)(a) (August 2015). Further, orthopedic or corrective shoes or foot orthoses are covered by MA only for postsurgery conditions, gross deformities, or when attached to a brace or bar. Wis. Admin. Code § DHS 107.24(4)(f) (August 2015); see also, Wis. Admin. Code §§ DHS 107.24(2)(c)2. & 3. (August 2015). Therefore, petitioner is not eligible for payment by the MA program for the requested custom foot orthotics (inserts).

### **CONCLUSIONS OF LAW**

For the reasons discussed above, petitioner is not eligible for payment by the MA program for the custom foot orthotics (inserts) requested in PA # [REDACTED].

**NOW, THEREFORE, it is**

### **ORDERED**

That the petition for review herein be and the same is hereby DISMISSED

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 4th day of May, 2016

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\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 4, 2016.

Division of Health Care Access and Accountability